

In reply, with traverse as argued below, the Applicant elects Species XIV, which was indicated by the Office to correspond to FIGS. 20A-21F. The Applicant does so with the understanding that, upon the allowance of a generic claim, the Applicant will be entitled to the consideration of claims to additional species written in dependent form or otherwise including all limitations of an allowed generic claim. The claims readable on the elected Species are as follows:

Species XIV: Claims 29-38, 44-49, and 59-61.

The Applicant submits that the foregoing election of species and listing of claims meet the Office's requirement for election / restriction such that the application is in condition for consideration on the merits.

However, the Applicant's election is with traverse. Although the listed species of the invention have patentably distinct aspects in relation to one another, it would be reasonable to retain at least a plurality of the indicated species in a single patent application even should no generic claim finally be allowed. Pursuant to MPEP §808.02, even where "related inventions as claimed are shown to be independent or distinct ...", a proper requirement for restriction demands that there by a "serious burden on the examiner if restriction is not required." Pursuant to the MPEP, it must be shown either a) a separate classification thereof; b) a separate status in the art when the inventions are classifiable together; or c) a different field of search. Id. Where, "the classification is the same and the field of search is the same and there is no clear indication of separate future classification

and field of search, no reasons exist for dividing among independent or related inventions."

Id.

In the present case, there is no evidence of record that all twenty-five different species enumerated by the Office are separately classified, have achieved a separate status in the art, or require a different field of search. The Applicant most respectfully submits that at least some of the listed species would not be properly divided under the guidance of the MPEP. By way of example and not limitation, the species of FIGS. 19A-19C and 22A-28F are so related that they would not be likely to be separately classified, have not achieved separate status in the art, and would not require a different field of search. Indeed, the same could reasonably be argued in relation to the embodiments of FIGS. 1-12 with the exception of FIGS. 8 and 9.

Based on the foregoing, the Applicant respectfully requests that, to the extent necessary based on the allowability of the claims, the Office reconsider its requirement for restriction to allow those species that would properly remain together pursuant to the teachings of the MPEP to remain for active consideration in the present application.

### Conclusion

In closing, the Applicant notes that he believes that he has fully responded to all issues raised in the Detailed Action. If, after consideration of the present response, there remain any open issues in this application that possibly can be resolved by a telephone interview, then the Applicant's undersigned attorney most respectfully requests that he be

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called to discuss and attempt to resolve those issues.

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Date

Respectfully Submitted,

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